Alberta
GOVERNMENT PENSION BOARDS

1203, Legislature Annex, 9718 - 107 Street, Edmonton, Alberta, Canada T5K 1E4 403/427-7105 Fax 403/427-1621

June 1991

The Honourable Dick Johnston
Provincial Treasurer

Sir:

I have the honour to submit to you the annual report of the Public Service Management Pension Plan Board for the period January 1, 1990 to December 31, 1990. The report outlines the roles and responsibilities of the Public Service Management Pension Plan Board under the legislation governing the plan.

Board activities, during the period under review, with respect to its appellate and advisory roles are described in the report.

Yours truly,

J. E. Faries, FCIS, PAdm.
Chairman

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INTRODUCTION

The calendar year 1990 is the fifth year of operation of the Public Service Management Pension Plan Board. This Board was established November 1, 1985 under the Public Service Management Pension Plan Act. At March 31, 1991 there were 5,173 active participants and 1,876 pensions in payment.

The main responsibilities of the Board are:

- to hear appeals of administrative decisions on pensions made by the Minister,
- to extend time limits under section 10 of the Act and under reciprocal agreements, and
- to advise the Minister responsible for public service pensions on matters relating to the Plan.

The Honourable Dick Johnston, Provincial Treasurer, is the Minister responsible for public service pensions. The Plan is administered by Alberta Treasury, Payroll and Pensions Division.

The Board is made up of five members, who are appointed by the Lieutenant Governor in Council, representing the employees, employers and the Government.

The roles of the Board are split between quasi-judicial and advisory. The quasi-judicial role of the Board is summarized in the section Summary of Appeals. A sample of appeal cases is provided for information. The advisory role is discussed in the section Advice. In addition, a detailed summary of specific recommendations is found in Appendix C.

1. Funding
2. COLA
3. Pension Reform
4. Prior Service
5. Reciprocal Transfers

CHAIRMAN'S REPORT

In preparing my comments for the year 1990, I pause to reflect on the Alberta Pension System over the years. For many years Alberta's Public Service Pension System was one of the leaders in Canada. Many other provinces looked to the Alberta System for leadership. This was evident when Alberta took the lead role in forming the Association of Canadian Public Service Pension Advisors in 1973. The main issue of that day was the importance of permitting public service employees to move from one level of government to another. For the most part, the goal of the first annual conference has been met. More recently, general portability of pensions has become one of the key issues in pension reform.

In addition, new issues have emerged. The financial risk of the existing system has grown to the point where it is questionable whether it can be managed on the strength of a government guarantee alone. In attempting to find new ways of managing this growing financial risk, we must consistently remind ourselves that pensions are no longer a reward for long and faithful service; it is now public policy that they be considered as deferred wages. A pension plan is a benefit offered to current employees to help them face old age knowing that they have a certain level of purchasing power. To ignore this would be "breaking faith" with public servants who over their careers have faithfully served the government and taxpayers. Any modification to the plan must be done in a way to preserve the integrity of the plan.

The pension system in general is in the midst of reform as sponsors and beneficiaries attempt to strike a balance between risk and promises. Various provincial jurisdictions have moved ahead with private and public sector reform - often the result of long processes of consultation and consensus building. The federal government is also showing an interest in pensions as witnessed by its "Tax Reform" package, which attempts to bring increased equity into the retirement system. Many of the recommendations summarized in this report attempt to respond to these issues within the context of the Public Service Management Pension Plan.

Change, however, is a difficult process to initiate and manage. There is risk involved in change, but there is greater risk involved in not changing when it is required. Much like a frog in water who fails to respond to the water being heated until it is too late, failure to respond to a changing environment can have catastrophic results.

Apart from making specific recommendations, the Board has focused on the need for change and the process of bringing about change. The annual seminar brought together Board members, employees, employers, retired public servants and government representatives to address a basic question:

"How well do the current structures which deliver public sector pensions in Alberta serve its public servants and taxpayers, and is there a better way?"

The discussion was led by a panel which included Mr. Keith Ambachtsheer, a highly respected consultant in the industry, Mr. Al Reeve, the Executive Director of the Ontario Municipal Employees Retirement System (OMERS) and Mr. Al O'Brien, the Deputy Provincial Treasurer of Alberta. The perspectives presented by the speakers and participants created a greater sense of awareness among the various stakeholders. A consensus emerged that now is the time for change in a managed fashion.

With that agreement in mind, the Board sponsored a proposal to institute a formal process to decide how best to deliver public service pensions in the 1990's starting with the basic principles of governance and funding. The view was that such a process should consider

1. Understanding current pension delivery structures and alternatives to them.

2. Weighing the pros and cons of available choices.

3. Deciding the future direction and delivery structures to meet future needs.

Changes experienced in other jurisdictions have made available a wide choice of alternatives. Public sector pension systems now vary substantially across the country as each province developed different models. Weighing the pros and cons of each and deciding which model should be used requires a formal process. That process should be based firmly on consultation.

The Minister has indicated that changes to "funding, benefits and administrative provisions" in addition to changes required to comply with federal tax reform are being contemplated.

If adjustments are to be made to the plan, it is important that adequate time be committed for consultation with all parties involved. Changes must insure that the plan is viable and meets the needs of all beneficiaries for years to come. A clear plan must be established to deal with the accrued liabilities of the plan, funding of current service and benefits for members. The incidence of risk must be examined and all beneficiaries given adequate tools to manage the risk they are asked to bear. If these steps are not taken, then the value of the plan may be lost to those beneficiaries who need it the most.

THE BOARD

The Board is made up of 5 members, appointed by the Lieutenant Governor in Council, representing employees, employers and the Government. Although the Public Service Management Pension Plan Act stipulates that one member shall be appointed from among the participants, there is no clear indication on the division of employee and employer representation. The Vice-Chairman and Chairman are appointed from among the members and the latter is responsible for the leadership at hearings and meetings of the Board. With the exception of the Chairman, Board members serve on a part-time basis. The Chairman serves as Chairman of the Boards of four other government administered pension plans and Vice Chairman of the Board of Administrators of the Teachers' Retirement Fund. A small staff provides professional and administrative services to all Boards.

Brief biographies of Board members as at December 31, 1990 are provided below:

J. E. Faries

Mr. Jerry Faries was appointed Chairman of the Board in 1985. He brings to the Board considerable background in pension policy and administration. He served over 15 years as Director of the Pension Administration and five years as Chairman of the Administrative Board. Mr. Faries was, for a number of years, chairman of the Advisory Committee and instructor for the Employee Benefit Administration Certificate program offered by the Faculty of Extension at the University of Alberta. Currently, he holds several senior positions on other boards and community organizations. His term of office expires on April 1, 1992.

A. F. (Chip) Collins

Mr. Collins, the government representative, is Vice-Chairman of the Board. He served as Deputy Provincial Treasurer from 1972 until his retirement in 1984. Mr. Collins brings to the Board extensive financial, administrative, and public service experience. His term of office expired on April 1, 1991.

T. Forgrave

Mr. Tom Forgrave was appointed to the Board on January 8, 1987. He received his undergraduate and graduate education at the University of Western Ontario and Toronto. An ordained minister of the United Church of Canada, he has held various positions with the City of Edmonton. He is currently Assistant Deputy Minister, Municipal Administrative Services Division, Alberta Municipal Affairs. His term of office expired on April 1, 1991.

D. B. Harford

A graduate of the University of British Columbia, Mr. Don Harford joined the Alberta Government in 1967, working in human resource development and personnel. For the period 1971 to 1975 he was Assistant to the Alberta Minister of Manpower and Labour as well as Executive Secretary to the Royal Commission on the Grande Cache Coal Mining Industry and Occupational Health and Safety. He was on loan to the Government of Saskatchewan in 1975 and worked for the Public Service Commission and the Department of Finance in Saskatchewan until 1979. On his return to Alberta, he assumed the position of Executive Director, Management Services Division, PAO and subsequently Executive Director, Management Programmes Division, PAO. Mr. Harford was appointed to the Board in November 1989 to complete Mr. Black's term of office which expired on April 1, 1991.

O. J. Lennie

Mrs. Oryssia Lennie received her undergraduate and graduate studies at the University of Alberta. She was awarded the Queen Elizabeth 25th Anniversary Medal (Citizenship Award) in 1977. She began her career as a Research Officer with the Department of Federal and Intergovernmental Affairs and is currently Deputy Minister with the same department. Her term of office expires on April 1, 1992.

SUMMARY OF APPEALS

Provisions

The Act provides that decisions of the Minister, which adversely affect plan members' rights under the Pension Plan, in any of the following areas, can be appealed:

Participation	Contributions
Pensionable Service	Prior Service
Benefits	

The Act also provides for application to the Board for extension of time limits in respect of pension benefits and benefit choices. Under the terms of the various reciprocal transfer agreements, the Board is empowered to extend time limits on breaks in service and on applications at its discretion.

The provisions dealing with applications under section 10 and appeals under section 35 are outlined for easy reference in Appendix A - excerpts from the Act.

Parties aggrieved by a decision of the Board may, under section 36 of the Act, appeal to the Court of Queen's Bench within 30 days on a question of law or jurisdiction.

Procedure

A prescribed Notice of Appeal form is normally provided to the plan member by Payroll and Pensions Division of Alberta Treasury with any adverse administrative decision. This form must be completed and submitted in filing an appeal with the Board. It may also be used for applications for time limit extensions.

Assistance to appellants is available from the Chairman's office. The individual may seek advice on what facts to gather and how they should be presented.

Hearings are conducted in an informal manner, and the Board is guided by the pension legislation and adheres to the principles found in the doctrines of natural justice and fairness. The Board has published a Pension Appeal Process brochure which provides guidelines for members of the Alberta Pension Plans.

The Board has authorized the Chairman to reimburse appellants and applicants appearing before the Board for reasonable travel and out-of-pocket expenses. This ensures that all appellants and applicants have the opportunity to appear and present their cases irrespective of their places of residence.

Summary of Appeals and Applications (1990)

During 1990 the PSMPP Board decided on 8 appeals and applications, compared to 4 dealt with in the previous year. The Board granted or varied 75% and 50% of the cases in 1990 and 1989 respectively.

In 1990, 87% of the appellants and applicants or their representatives attended their hearings before the Board. This compares to 75% in 1989.

Summary of Appeals and Applications for 1990, by categories, with comparative figures for 1989 - PSMPP Board

	1990			1989		
Category	#	% of Total	% Granted or Varied	#	% of Total	% Granted or Varied
Reciprocal Transfer	1	13%	100%	0	-	
Time Limit Extensions (Section 10)	2	25%	50%	0	-	-
Appeals (Section 35)	5	62%	80%	4	100%	50%
TOTAL	8	100%	75%	4	100%	50%

One appeal was filed but did not require a hearing by the Board - the appeal provision was relied upon to facilitate a resolution and the case was granted by Payroll and Pensions Division (P & P).

The following is intended to provide a cross-section of appeals and applications and is not an exhaustive description of cases heard by the Board.

Appeal #1 - Costing of Prior Alberta Government Service

The appellant was employed by a Government department and contributed to the Public Service Pension Plan (PSPP) from April 1977 to May 1980. He resigned in May 1980 and received an automatic refund of his contributions. Several months later, he became employed again by the department and resumed contributions to the PSPP. He was not advised of his rights to reinstate his previous service under the PSPP. In January 1982 he was promoted to a management position and his PSPP service was transferred to the Public Service Management Pension Plan (PSMPP). The appellant

claimed that he did not realize he had changed pension plans. He denied receiving notification in October 1983 re contribution deficiency arising from the transfer to the PSMPP. After attending a pension seminar sponsored by Payroll and Pensions (P & P) and learning about prior service, he immediately applied to purchase the 1977 to 1980 service. P & P costed the service at 14% of historical salary plus interest. The appellant argued that had he been properly informed and given the opportunity to reinstate the service while under the PSPP, the cost would have been about $2,700 as opposed to $11,415 under the PSMPP. He also argued that he should not be penalized for accepting a promotion within the Government and cited a precedent case of a co-worker.

The Minister's argument was that the matter had been properly dealt with in accordance with the legislation. He submitted that the Board did not have the jurisdiction to hear the matter in light of the Majthenyi decision and that the Board had erred in granting relief in the precedent case quoted by the appellant. The Minister further pointed out that despite P & P's responsibility to provide information, the appellant was equally responsible to keep himself informed of the rules of the plan.

The Board requested a legal opinion and at the same time recommended to the Minister to treat the appellant the same way as his co-worker. The Minister rejected the Board's recommendation. The Board received a legal opinion in support of taking jurisdiction and following its decision made on the previous case.

The Board found that the appellant did receive several pensions statements but these were unclear in terms of contribution deficiencies or prior service. It was determined that the appellant was not aware of the problem until it had arisen. The Board considered that the Majthenyi decision did not apply in this case which called for an interpretation of the PSMPP Act and principal regulation.

Based on section 15(2) of the principal regulation of the PSMPP Act, the Board granted the appeal. Since the appellant met the conditions of employment, on promotion, he was required to pay the shortfall to bring his contribution up to 5% of salary earned during the period in question.

The Board's decision was appealed by the Minister to the Court of Queen's Bench in October 1990. The Court ruled in November 1990 that the Board's decision is entitled to curial deference and should not be interfered with on the facts of the case.

Appeal #2 - Application for Extension of Time Limit for Reciprocal Transfer

While contributing to the Teachers' Retirement Fund (TRF), the applicant took a sabbatical leave with pay from his employer for the period September 1989 to April 1990. Although he received a partial salary, no pension contribution deductions were made. In May 1990 he started employment with an employer under the Public Service Management Pension Plan (PSMPP). His request to transfer from the TRF to the PSMPP was denied because of a break in service of more than three months. He requested the Board to extend to the time limit to allow the transfer.

Payroll and Pensions' (P & P) Division denied the application on the basis that the applicant did not meet the three-month time limit between leaving the exporting plan and joining the importing plan. It was pointed out that the applicant terminated contribution under TRF in September 1989 and did not become a contributor under the PSMPP until May 1990.

The Board received evidence that the applicant took a sabbatical leave to study at the university during the break in contributory service. On this basis, the Board extended the time limit to allow the transfer of contributions and credits accumulated up to August 31, 1989 from the TRF to the PSMPP.

Appeal #3 - Employment While In Receipt of a Pension

The appellant retired in October 1981 and started to receive his pension under the Public Service Management Pension Plan (PSMPP). In October 1989 Payroll and Pensions' (P & P) Division became aware that the appellant was engaged to work for a participating employer under the PSMPP. The Minister determined that the appellant was restricted by section 23 of the regulation from working for an employer while receiving his pension. The appellant's employer requested a retroactive extension of the limit of re-employment to 168 days in 1989 and a further extension for 1990.

The Minister denied the application and requested that the appellant repay the pension overpayment. The employer offered to pay the amount on behalf of the appellant and also advised that he had terminated work as of January 1990. As a result of further contact with P & P, the appellant launched the appeal.

Initially, the appellant was approached by the employer involved for a temporary assignment of two to three days a week. Because of the volume of work, the appointment was eventually extended to full time. The employer was aware of the appellant's pension situation. The appellant's arguments for the appeal were: (1) the Act and regulation allow the Minister to approve extensions for working while in

receipt of a pension; (2) the employer in question is at arm's length from the Government; (3) pension benefits are payable for life; (4) there are precedent cases; and (5) eight co-workers are receiving pensions including one who recently retired under the Local Authorities Pension Plan (LAPP).

The Minister's representative argued that he was merely following the Act and regulations in place. He also pointed out that the appellant had been employed in the personnel administration field and should have known the consequences of working beyond the 84 work days in a year. As well, the employer involved had ample information about rehiring policy of pensioners and did not take the steps to apply for an extension ahead of time.

The Board found that the appellant was appointed by Order-in-Council 719/88 to his position; individuals in his category were paid a per diem rate under the Committee Remuneration Order-in-Council 1175/80 and no other employee benefits were provided; section 3 of O.C. 1175/80 provided that Government employees could not receive remuneration under the order; the appellant retired from Government services in 1981; the appellant was appointed to a temporary position with a commission which was not declared an employer under the PSMPP Act.

The Board vacated the Minister's decision and determined that the appellant did not fall under the rehiring clause of the Act. The bases of the decision were: (1) the appellant was appointed by O.C. 719/88 and was remunerated under O.C. 1175/80 excluding any employee benefits; (2) by virtue of the fact that the appellant was remunerated under O.C. 1175/80 which did not apply to the Chairman or members of a committee who were Government employees, he was not considered to be a Government employee; (3) section 23 of the regulation referred to an individual who became engaged to work for an employer whereas the employer in this case had not been declared an employer under the Act; (4) "engaged to work for" was not defined, therefore, the common definition of the wording had to be used.

Appeal #4 - Calculation of Transfer Deficiency

The appellant terminated his employment with the Provincial Government and participation under the Public Service Pension Plan (PSPP) for a position with a local authority. He transferred his PSPP contributions to the Local Authorities Pension Plan (LAPP). About sixteen months later, he terminated his employment with the local authority and rejoined the Government under the Public Service Management Pension Plan (PSMPP). He requested that his LAPP contributions be transferred to the PSMPP. The Minister assessed a contribution deficiency of approximately $10,000 and the appellant was given the option to pay for this or have his service prorated under the PSMPP.

The appellant stated that there was a significant difference in transfer deficiency because he was employed under the LAPP rather than the PSPP immediately before joining the PSMPP. He requested that his PSPP service retain its identity in the transfer in calculating the total cost of his service.

The Minister submitted that the appellant's case was properly dealt with under the pension legislation and regulation. He agreed with the appellant's observation about the difference in costing in a transfer deficiency between the LAPP-PSPP-PSMPP and the PSPP-LAPP-PSMPP routes. Once the transfer from the PSPP to the LAPP was completed, the PSPP service would have been incorporated into the LAPP and lost its original identity. Therefore, on the appellant's subsequent transfer from the LAPP to the PSMPP, all the service was calculated as LAPP service as the Act and regulation called for.

The Board determined that section 15 of the PSMPP regulation required that in order for the lower rate of calculating the transfer deficiency to apply, an individual had to be employed by the Government immediately before joining the PSMPP. The appellant's PSPP service, once transferred to the LAPP, was treated as part of his LAPP service for subsequent transfers. The Board confirmed the Minister's decision.

ADVICE

The Board is empowered to "advise the Minister respecting any matters relating to the plan" (Section 9 of the Act). These include adequacy of contributions, benefits, actuarial assumptions, rates of interest etc. In total, this covers virtually all aspects of plan administration and fund management. In reviewing the advice offered by the Board, it is appropriate to measure it against some standard or test. The standard used to evaluate the management of a pension plan is the fiduciary standard. It can be argued that the Minister, as the administrator of the plan, is a fiduciary. It can also be argued that the Board through its statutory responsibility to advise the Minister should be judged on the same basis.

A fiduciary is someone who has acquired a position of trust on the condition that he will act in the best interests of another. For a pension plan, the duty of the fiduciary is to act in the best interests of the plan beneficiaries. In the case of the PSMPP, the beneficiaries could be argued to include:

(1) The plan member as someone who contributes and expects to receive a benefit from the plan.

(2) The spouse, dependant or estate of the plan member, to the extent they are entitled to a benefit, contingent or vested, under the plan.

(3) The Government as the employer under the plan to the extent that the PSMPP may be considered an employer sponsored defined benefit plan.

(4) The taxpayer, through his agent the provincial government, by virtue of the guarantee affixed to the benefit and therefore potential responsibility for any unfunded liability of the plan.

In evaluating the Board's advisory record on the basis of a fiduciary, one can look both at its specific recommendations and its leadership in a broader consultative role. The Board's recommendations can be found in a number of letters and reports to the Minister. **"Funding and Benefits, Analysis and Recommendations"** was a report presented to the Minister in May 1990 which proposed a "fix-up" of the PSMPP in anticipation of pension reform. The proposals contained in this report and other letters are summarized in Appendix C and include recommendations on:

(1) Funding

(2) Cost of Living Adjustment (COLA)

(3) Pension Reform (Including Portability, Vesting and Interest Rates Applied to Withdrawals, etc.)

(4) Prior Service

(5) Reciprocal Transfers

As a whole, the Board's recommendations advocate greater accountability, more adequate funding, minimized opportunities for selection against the fund, and recognition and management of the risks faced by all "beneficiaries."

In addition to this direct advice, the Board also engages in a broader consultative role. The Annual Seminar provides an opportunity for stakeholders in the various public sector "pension deals" to discuss issues in an open forum. This year's seminar focused on plan governance. As pre-work for the seminar, a discussion paper titled **"Plan Governance: A Framework For Discussion"** was circulated to all participants. Through a series of presentations by outside speakers, panel discussions and workshops, representatives of employees, employers, Treasury, and interested parties were able to speak directly on the issue of governance.

The proceedings of the seminar pointed to a consensus among the participants that governance was important and, given its linkages to all issues facing the plan, should be addressed. The executive summary, **"A Logical Next Step: Developing The Consultative Process,"** focused on what sort of process could be put in place to deal with the issue. Based on the consensus established at the seminar, a proposal was presented to the Minister early in 1991 that the governance and funding of the plan be reviewed. Such a review would allow for input from all "beneficiaries" and enable a consensus to be established regarding these two critical issues.

The Minister did respond and indicated that, in addition to tax reform, other changes related to "financing, benefit and administrative changes" were being considered. At the time of writing, details of the Minister's plan amendments and process for consultation were still forthcoming. It is expected that the proposed changes and anticipated consultations will guide Board activities in 1991.

APPENDIX A

Excerpts from the Act

The following excerpts of the Public Service Management Pension Plan Act define the make-up and responsibilities of the Public Service Management Pension Plan Board.

Establishment, composition, term of office, etc.

5(1) There is hereby established a board known as the Public Service Management Pension Plan Board.

(2) The Board shall consist of not fewer than 5 persons appointed members of the Board by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council shall appoint 1 of the members of the Board from among participants.

(4) A member of the Board holds office for the term fixed in relation to him by the Lieutenant Governor in Council.

(5) The Minister may prescribe the remuneration and expenses to be paid to members of the Board.

(6) The Board may make rules respecting the calling of and conduct of business at its meetings.

Chairman and Vice-chairman

6(1) The Lieutenant Governor in Council shall designate one of the members of the Board to be the chairman and another member to be the vice-chairman of the Board.

(2) The vice-chairman shall act as chairman when the office of chairman is vacant or when the chairman is absent or unable to act.

Support services

7 The Minister shall provide such supplies, services and accommodation as he considers necessary to enable the Board to fulfil its objects.

Objects of the Board

8 The objects of the Board are

(a) to conduct the hearing of appeals under Part 6;

(b) to provide advice to the Minister under section 9;

(c) *where appropriate, to extend time limits and treat benefit choices as revoked under section 10;*

(d) *to exercise and perform any other powers and duties assigned to it by this Act and the regulations;*

(e) *to perform any other duties relating to the Plan that are assigned to it by the Minister.*

Advisory functions of the Board

9 *The Board may advise the Minister respecting any matters relating to the Plan, including*

(a) *the adequacy of contributions to meet benefits,*

(b) *adjustments to pensions under section 27,*

(c) *rates of interest for the purposes of the Plan,*

(d) *benefits,*

(e) *reciprocal agreements,*

(f) *recognition of prior service,*

(g) *eligibility and participation in the Plan, and*

(h) *the actuarial tables prescribed or to be prescribed by the Minister.*

Board's power to extend time limits, etc.

10(1) *Where*

(a) *a person fails to meet a time limit under the Plan,*

(b) *the failure will or could result in a person's obtaining different benefits than those he would have obtained had the time limit been met, and*

(c) *the Board is satisfied that the failure results from circumstances that import no material fault on the part of that person,*

the Board may, on application to it, extend the time limit.

(2) Where

(a) the circumstances set out in subsection (1)(a), (b) and (c) apply,

(b) the benefit has been received or has commenced to be paid, and

(c) the Board is satisfied that a choice, including a deemed choice, that would otherwise be irrevocable under section 40(2) could materially prejudice the best interests of the recipient or his dependants,

the Board may, on application to it, treat that choice as revoked, extend the time limit for making the choice and order any consequential adjustments in the benefits.

(3) Where

(a) a benefit choice has been made, and

(b) the Board is satisfied that

(i) the choice communicated to the Minister was not that which the person making the choice actually intended, and

(ii) the application mentioned in this section does not result from a change in a person's circumstances affecting the choice,

the Board may, on application made to it within 3 months from the date when the benefit was received or commenced to be paid, treat the choice as revoked, substitute for it the choice that, in the Board's opinion, the person originally intended to make and order any consequential adjustments in the benefits.

Appeal to the Board

35(1) A party aggrieved by a decision of the Minister under or in relation to Parts 2 to 5 or the prescribed provisions of the regulations, other than a decision under section 32 or one that could be the subject-matter of an application under section 10, may appeal against that decision to the Board.

(2) *A party wishing to appeal to the Board under this section must serve the chairman of the Board with a notice of appeal in the form prescribed by the Minister within 30 days of being notified in writing of the decision appealed against or within such longer period as the Board may, on application, allow.*

(3) *The notice of appeal must specify the decision appealed against and the grounds of appeal.*

(4) *The Board may identify persons who may be interested in the appeal and may give directions as to the persons to be served with the notice of appeal, whether or not they are parties.*

(5) *For the purposes of conducting an appeal under this section, the Board*

(a) *has all of the duties, powers, privileges and immunities given to a commission appointed under the Public Inquiries Act by sections 3, 4, 7 and 9 of that Act, and*

(b) *shall be deemed to be a person for the purposes of section 1(a) of the Administrative Procedures Act.*

(6) *The Board may confirm, vacate or vary the decision appealed against.*

(7) *The Board shall serve the appellant and persons who received a notice of appeal with a copy of its decision, including the reasons for the decision.*

Appeal to the Court of Queen's Bench

36(1) *A party aggrieved by a decision of the Board under section 35 may, within 30 days of the date of service of the Board's decision on him or such longer period as the Court may allow, appeal to the Court of Queen's Bench on a question of law or jurisdiction.*

(2) *The procedure in an appeal to the Court of Queen's Bench shall be the same as that provided in the Alberta Rules of Court for applications by originating notice.*

(3) *The Court of Queen's Bench, on hearing the appeal, may confirm, vacate or vary the decision of the Board or make any order it considers just.*

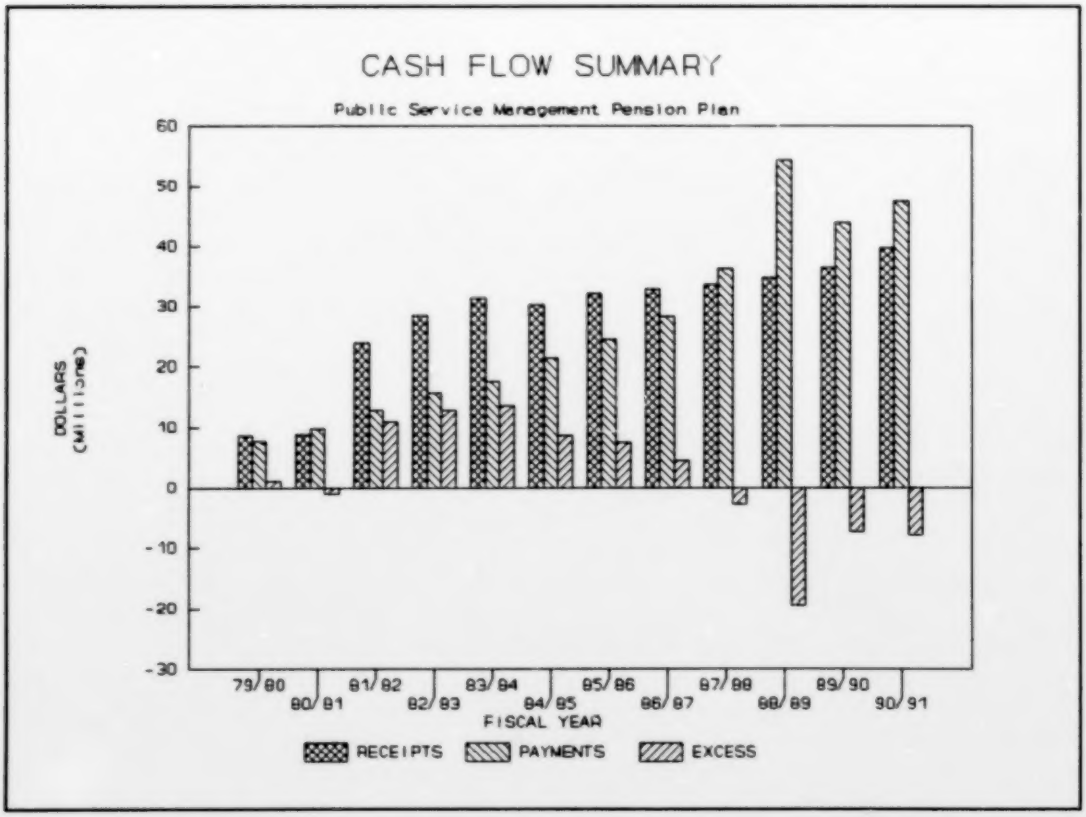
APPENDIX B

Summary of Statistics

Payroll and Pensions provide monthly reports to the Board. Based on this information, the Chairman's office has compiled the following summary:

Cash Flow

The graph below shows the cash flow for fiscal years 1979/80 through 1990/91. The Board observed that a cash deficiency has been experienced for four consecutive years. Included in the payments for fiscal year 1988/89 of $54,247,000 was a transfer of funds of approximately $13.5 million to the Judges' Pension Plan. This payment is also reflected in the shortfall for fiscal year 1988/89 of $19,458,000. The shortfall for fiscal year 1990/91 is $7,843.000.



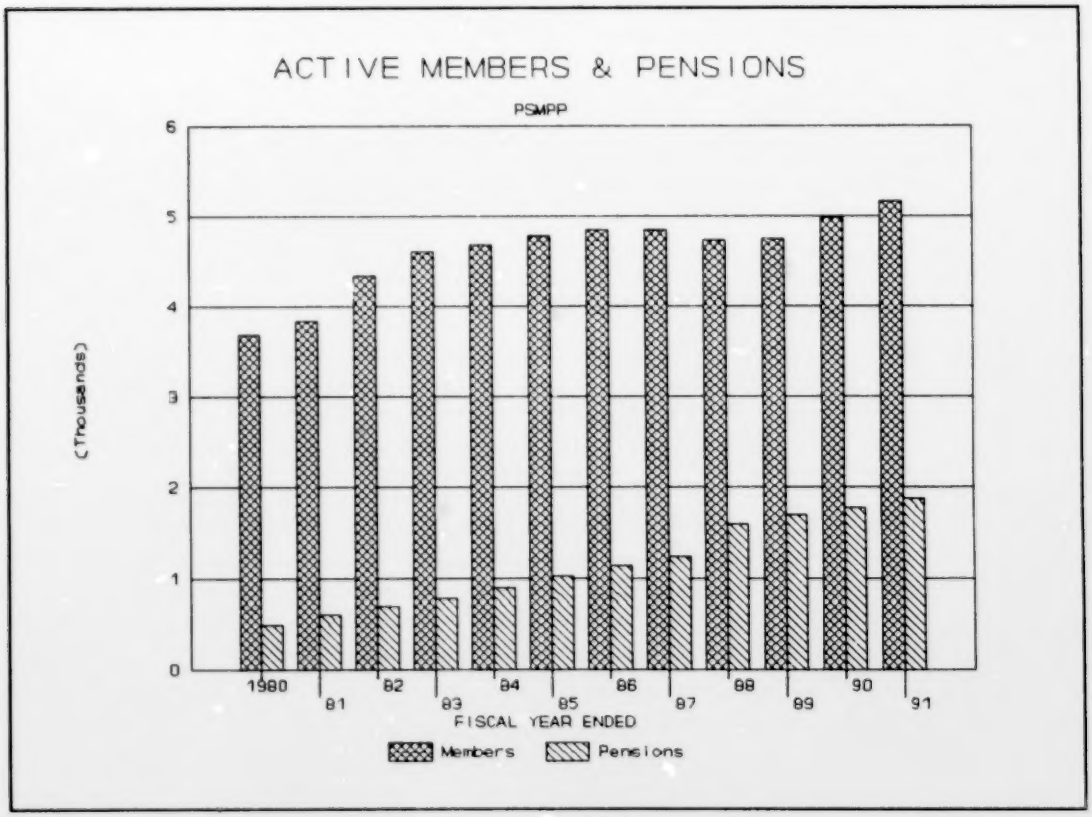
Membership

The following graphic shows that the number of members increased during the fiscal year by 3.5%. Active members includes members of management in Government and its Boards, Agencies and Commissions. Active membership in the plan increased from 3,693 as at March 31, 1980 to 5,173 as at March 31, 1991.

Pensions in Payment

Pensions in payment increased from 496 at March 31, 1980 to 1,876 as at March 31, 1991. The graph below illustrates the relative increases.

The average pension in payment was $1,263 per month on March 31, 1980 and has increased to $2,093 per month for pensioners and $1,316 per month for surviving spouses on March 31, 1991.



APPENDIX C

Board Recommendations

1. <u>Funding:</u>

Status Quo Employee and employer contribution rates are established within the legislation. Net cash flow (contributions in excess of pension payments) is directed into a common "pension fund" created for five public sector pension plans. The PSMPP and the other four plans have accrued a significant unfunded liability. The plan is valued using conservative actuarial assumptions.

Recommendation

The Board has recommended that:

(a) Contribution rates be increased by 1% a year for 3 years and the increases shared equally between employees and employers.

(b) The appropriate current service contribution rates be established by an independent third party.

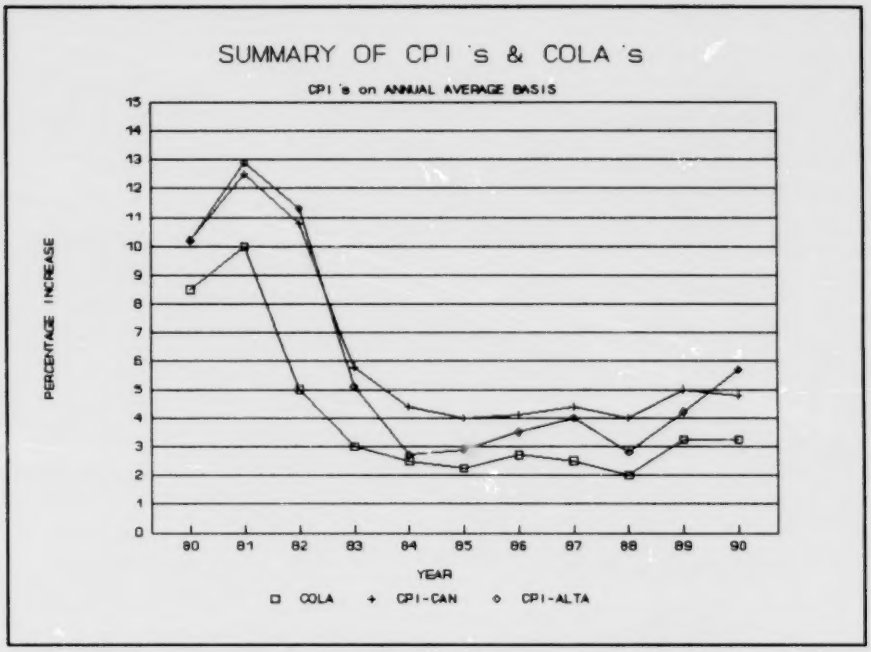
(c) The government take steps to deal with the existing unfunded liability.

(d) The cost impact of Tax Reform be determined now rather than as part of the regular valuation scheduled for sometime in 1991.

Impact Dealing with the unfunded liability would increase the security of the plan and reduce inter-generational transfers by paying for public service costs in the period in which they were consumed. Increasing the contribution rates combined with cost reductions due to tax reform would go a long way towards meeting the current service cost of the plan. A third party valuation would provide a clear benchmark to evaluate subsequent action regarding funding.

2. COLA:

Status Quo Cost of living adjustments to the plan are granted annually (since 1962) by the Minister. The actuarial valuations contemplate a COLA on the basis of 75% of the Consumer Price Index (CPI). The actual COLA that has been granted has fallen short of that target level through out most of the last 10 years.



The graph above shows the COLA's granted on January 1 following the years 1980 through 1990, i.e. the COLA of 3.25% shown for 1990 was granted on January 1, 1991. The Consumer Price Index (CPI) increases are for the calendar years, i.e. CPI-CAN shown for 1990 is the 4.8% increase in the 1990 average CPI over the 1989 average CPI. During the 11-year period the average annual increases were as follows: Canada CPI - 6.3%, Alberta CPI - 5.9%, COLA's granted - 4.1%. Similarly, during the 5-year period 1986 through 1990 the average annual increases were as follows: Canada CPI - 4.5%, Alberta CPI - 4.0%, COLA's granted - 2.7%.

Recommendation

The Board has recommended that a COLA formula based on 75% of the Alberta Consumer Price Index be encoded into legislation. Based on this formula, the Board recommended that a COLA of 4.2% be granted effective January 1, 1991. The adjustment granted by the Lieutenant Governor in Council was 3.25%.

Impact Encoding COLA would not increase the current service cost of the plan since it has already been taken into account by the actuaries. However, it would strengthen the security of the benefit for which current participants are now being charged.

3. <u>Pension Reform:</u>

Status Quo Currently the Plan allows the employer discretion whether or not to allow part time employees to participate. Vesting is based on five years of pensionable service. Pension benefits are "locked-in" when an employee becomes entitled to a pension benefit (i.e. age 55 and 5 years of pensionable service). Credited interest to employee accounts is fixed in legislation at 4%. Transfer of funds is allowed under the terms of a reciprocal agreement or through the withdrawal/transfer of the employee portion and credited interest.

Recommendation

The Board has recommended that:

(a) Vesting should be based on five years of participatory service.

(b) Locking-in should occur at the same time a person becomes vested under the plan.

(c) When crediting interest to employee accounts, the rate should be at a published market rate.

(d) On termination of service, transfer of a vested pension should be the same as required by the Alberta Employment Pension Plans Act.

Impact These changes would:

(1) Bring the Plan into line with community standards regarding portability, vesting, and credited service.

(2) The Plan would be more equitable in terms of participation and a fairly priced termination benefit.

4. **Prior Service:**

Status Quo Currently the plan offers a variety of prior service buy backs. The costs levied vary depending on date of application, the type of service being purchased, or years since the prior service was rendered. The costs do not relate to the resulting increase in pension since the formula for calculating prior service is not based on an actuarial formula. A significant part of the growth in the unfunded liability can be attributed to the prior service costing provisions.

Recommendation

The Board has recommended that recognition of prior service be eliminated after a transitional period.

Impact The changes would reduce inequities between employees, increase fiscal responsibility, and lower administrative costs.

5. **Reciprocal Transfers:**

Status Quo It has been estimated the reciprocal agreements cost the PSMPP $4.7 million per year or 2.0% of management payroll. Almost all of this cost is incurred on promotions within the public service to management levels. Reciprocal transfers between the family of Alberta public sector plans is governed by a three month time limit.

Recommendation

The Board has recommended that a blended plan arrangement be put in place whereby a promoted employee would retain the PSPP benefit formula to date of transfer, and accrue the PSMPP benefit formula after that date. Employees transferring in from other

reciprocal bodies be provided with the integrated PSPP benefits to date of transfer and accrue the PSMPP benefits from date of hire. The three month break in service time limit for transfers among the "sister" plans be removed.

Impact The blended plan would make transfers and promotions cost neutral to the plan. The elimination of the three month transfer would add considerable flexibility to Alberta employees to move into and out of the private sector.

APPENDIX D

Summary of the Annual Seminar

The Annual Seminar, an event hosted by the Alberta Government Pension Boards Office on behalf of all Government Pension Boards, was expanded this year and proved to be very successful. The Seminar focused on a single issue, plan governance. A pre-work discussion paper on plan governance was distributed before the seminar. This put the questions related to plan governance on the table before the seminar began and gave participants an opportunity to develop their thinking before hand. Three panellists were charged with responding to the questions raised by the pre-work.

The question of governance was initially explored by Mr. Keith Ambachtsheer, of Keith P. Ambachtsheer & Associates Inc., a highly respected consultant who was a principal advisor to the influential Ontario Task Force of the Investment of Public Sector Pension Funds. He brought a challenge to the group to look at the issues facing them with an open mind. He encouraged the interaction of all parties involved in pensions with each other to bring about an acceptable and stable system. Mr. Ambachtsheer left two questions with the group.

1. "Should Alberta institute a formal process to decide how to best deliver public service pensions in the 1990's and beyond, keeping in mind the interests of both Alberta public servants and taxpayers?

2. What kind of process is most likely to answer question 1?"

From the practical point of view of governance, Mr. A. W. Reeve, Executive Director of OMERS, presented the experience of a self-administered public sector plan. He pointed out that OMERS was an administrative board with a professional staff which is responsible for the total operation of the plan, from everyday administration to investments and investment policy. OMERS has grown from a 1 billion dollar fund in 1963 to an 13 billion dollar fund in the 1990's.

Mr. A. D. O'Brien, Deputy Provincial Treasurer, addressed the seminar on the fiscal framework of governance from the perspective of the Alberta Government. After reviewing the history of the system in Alberta he stated that the Government was very concerned about the growing liabilities and demands made for increased benefits. He concluded that "decision making power should be apportioned according to who bears the financial risk." He stated that "The Government is not willing to expose itself to increased risk without mechanisms to ensure that experience shortfalls and benefit improvements are covered."

In addition to the panel, there were presentations on the administration of the plan, investment management of the pension fund and the advisory/quasi-judicial roles of the Boards. Of particular interest was the discussion by Professor John M. Law of the University of Alberta on the quasi-judicial and fiduciary responsibilities assigned to the Pension Boards. He concluded that even if the Boards are not considered fiduciaries, they must exercise a fiduciary standard when providing advice to the Minister on matters relating to the plan. They must make their recommendations taking into consideration the continuing life of the plan, the beneficiaries of the plan and the taxpayers. With regards to the Boards' quasi-judicial role, Professor Law noted that the Courts were willing to acknowledge the Boards' expertise in dealing with pension disputes. Citing from recent court decisions, he stated that the Courts have concluded that a court "should not interfere with an interpretation made by bodies having the expertise...in an area within their jurisdiction unless the interpretation is not reasonable or is clearly wrong." [Alberta Court of Queen's Bench, November 6, 1990, The Queen v. Palsat and the Public Service Management Pension Plan Board, Unreported].

Workshops were used to facilitate discussion among participants. Each group was asked to comment on the issues raised by the speakers and respond with its view of what should be the next step. It was from this feedback that the proposal, noted in the section Advice, was drafted for a process for consultation and was forwarded to the Minister. It was the view of seminar participants that issues such as funding could not be dealt with in isolation of governance. Further, the issues of funding and governance should be dealt with. Finally, a process of consultation should be put in place to address the issues.